

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2950.08US02

Reitz et al.

Confirmation No.: 5465

Application No.: 09/266,202

Examiner: K. S. Lee

Filed: March 10, 1999

Group Art Unit: 2832

For: ZINC OXIDE PARTICLES

PETITION TO WITHDRAW OFFICE ACTION

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Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231

NOV 22 2002

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Sir:

Applicants petition under 37 C.F.R. 1.181(a)(1). An Office Action was mailed on November 5, 2002 for the above noted application, after the proper filing of Applicants' Appeal Brief on August 16, 2002. Since the issuance of the Office Action was contrary to the procedure in the MPEP, Applicants respectfully request withdrawal of the Office Action of November 5, 2002 and reinstatement of the Appeal pursuant to the Appeal Brief filed on August 16, 2002. Applicants have filed with this Petition a Request to Reinstate The Appeal.

Under MPEP 1208.02 (emphasis added), an examiner may reopen prosecution after appeal "to enter a **new ground of rejection** after appellant's brief or reply brief has been filed." However, the Office Action issued by the Examiner did not include a new ground of rejection. Therefore, the Office Action was inappropriate, and Applicants respectfully assert that the Office Action should be withdrawn.

Application No. 09/266,202

Applicants do not believe that any fee is due. However, if a fee is due, please charge any fee due to Deposit Account No. 16-0631.

Respectfully submitted,



Peter S. Dardi, Ph.D.
Registration No. 39,650

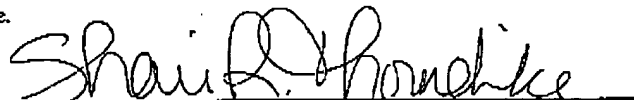
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Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. 703-872-9319 on the date shown below thereby constituting filing of same.

November 22, 2002
Date


Shari R. Thorndike

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